

REMARKS

Claims:

Claims 1-64 are pending, of which Claims 10-16, 26-32, 42-48 and 58-64 withdrawn, such that Claims 1-9, 17-25, 33-41, and 49-57 comprise the case.

D) 35 U.S.C. 112:

Claims 6-9, 22-25 and 38-41:

A) Claims 6, 22 and 38 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite in that the claims each recites "said failed accessor", which has "insufficient antecedent basis". Claims 8, 9, 24, 25, 40 and 41 depend from these claims.

Applicant has amended Claims 6, 22 and 38 to recite "a failed accessor" to correct the claims. Applicant respectfully submits that no new matter has been added. Claims 8, 9, 24, 25, 40 and 41 depend from these claims, and Claims 6, 8, 9, 22, 24, 25, 38, 40, and 41 are therefore submitted to be patentable under 35 U.S.C. 112, second paragraph.

B) Claims 7 and 39 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite in that the claims each recites "said failed accessor", which has "insufficient antecedent basis", and the Examiner noted that "it appears that applicant meant the claim to depend from" the immediately preceding claim instead of an earlier claim.

Applicant has amended Claims 7 and 39 to depend instead from the immediately preceding claim as suggested by the Examiner. Claims 7 and 39 are therefore submitted to be patentable under 35 U.S.C. 112, second paragraph.

Claims 23, 54 and 55:

Claim 54 has also been amended to recite “a failed accessor” to correct the claim, and Claims 23 and 55 have been amended to depend from the immediately preceding claim. Applicant respectfully submits that Claims 23, 54 and 55 are also patentable under 35 U.S.C. 112, second paragraph.

II) Allowable Subject Matter

Claims 6-9, 22-25 and 38-41:

The Examiner indicated that Claims 6-9, 22-25 and 38-41 “would be allowable if rewritten to overcome the rejections under 35 U.S.C. 112, 2nd paragraph, set forth in this office action and to include all of the limitations of the base claim ***.”

This has been accomplished, and Applicant respectfully submits that Claims 6-9, 22-25 and 38-41 are therefore allowable.

Claims 54-57:

Claims 54-57 are similar to Claims 6-9, 22-25 and 38-41, and have not been rejected under 35 U.S.C. 102. They have also been “rewritten to overcome the rejections under 35 U.S.C. 112, 2nd paragraph, set forth in this office action and to include all of the limitations of the base claim ***.”

Applicant therefore respectfully submits that Claims 54-57 are also allowable.

III) 35 U.S.C. 102:

Claims 1-5, 17-21, 33-37 and 49-53:

Claims 1-5, 17-21, 33-37 and 49-53 are rejected under 35 U.S.C. 102(b) as being anticipated by "Dimitri et al. ('490)". The patent was omitted from the form PTO-892, and a phone call was made March 27, 2005 to the Examiner, who identified the cited patent as USPN 6,038,490.

Applicant respectfully submits that independent Claims 1, 17, 33 and 49 patentably define over "Dimitri et al. ('490)".

Each of the independent Claims 1, 17, 33 and 49 have been amended and recite language equivalent to, e.g. Claim 1, "An automated data storage library, comprising: a plurality of storage shelves for storing portable data storage media; at least one data storage drive for transferring data with respect to said portable data storage media; a plurality of accessors which separately access and transport portable data storage media with respect to said plurality of storage shelves and said at least one data storage drive, along at least one path, and which interfere with one another along said at least one path; and a library controller for operating said plurality of accessors, said library controller, detects restricted movement of one of said plurality of accessors at a position along said at least one path by failure to move said one of said plurality of accessors to a service bay, and determines a range of motion of another of said plurality of accessors along said at least one path which avoids interfering with said accessor having said restricted movement, at said position along said at least one path." (Emphasis added).

This language is related to, but broader, than the language of the above allowable claims, and is not suggested or shown by Dimitri '490. Instead, Dimitri '490 "queues the received commands and allocates the queued commands to the pickers and in an order of jobs so as to allow the pickers to independently access and move the media to avoid interference in the same row set in adjacent regions, in the same region, or in regions which are behind the other picker."

(Abstract, lines 17-22). Dimitri '490 selects the pickers to use for particular jobs to avoid having to move a picker to a garage "to prevent interference" (column 5, lines 53-57), and does not consider Applicant's detection of "restricted movement of one of said plurality of accessors at a position along said at least one path by failure to move said one of said plurality of accessors to a service bay, and determines a range of motion of another of said plurality of accessors along said at least one path which avoids interfering with said accessor having said restricted movement, at said position along said at least one path."

Hence, Applicant respectfully submits that independent Claims 1, 17, 33 and 49 patentably define over Dimitri et al. '490. Applicant therefore respectfully submits that independent Claims 1, 17, 33 and 49, and Claims 2-5, 18-21, 34-37 and 48-53 which depend therefrom, also define patentable subject matter.

Applicant therefore respectfully submits that Claims 1-5, 17-21, 33-37 and 49-53 are patentable over all cited and discussed art under 35 U.S.C. 102(b).

Other Art:

The other patents cited by the Examiner have been examined and as best understood, do not teach or suggest Applicant's claimed invention. The Examiner cited USPN 6,785,588, Dimitri et al.; USPN 6,591,164, Plutt et al.; USPN 6,532,402, Otswald et al.; and USPN 6,438,459, Dimitri et al. Applicant submits that none of the cited patents teach, either singly or in combination, the present invention as described and claimed in Applicant's Claims 1-9, 17-25, 33-41, and 49-57.


Accordingly, Applicant believes the present invention distinguishes over the cited patents and respectfully requests that the Examiner allow Applicant's Claims 1-9, 17-25, 33-41, and 49-57.

SUMMARY:

Claims 6-9, 22-25 and 38-41 were indicated as having allowable subject matter, and Claims 54-57 are similar. Claims rejected under 35 U.S.C. 112, second paragraph, and similar claims have been amended to correct the issues of antecedent basis. Claims 1-5, 17-21, 33-37, and 49-53 are submitted to be allowable over the cited art under 35 U.S.C. 102.

Applicant respectfully submits that the present invention distinguishes over the cited patents and respectfully requests that the Examiner allow Applicant's Claims 1-9, 17-25, 33-41, and 49-57.

Respectfully submitted,
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